

DECISION MEMORANDUM
Pima County Department of Transportation
Road Right-of-Way Grant and Temporary Use Permit
DOI-BLM-AZ-G020-2016-0008-CX

U.S. Department of the Interior
Bureau of Land Management
Tucson Field Office

Project Description

On November 11, 2015, Pima County Department of Transportation (PCDOT) filed an application for Right-of-Way (ROW) AZA-035758 and Temporary Use Permit (TUP) AZA-035758-01.

PCDOT has submitted an application seeking a 60-foot wide right of way across 1,341 feet of public land for the purpose of upgrading and maintaining a public road (Wilmot Road). This section of Wilmot Road is an existing unpaved road for which no right of way currently exists. Pima County proposes to pave Wilmot Road from where current pavement ends at the Arizona Department of Corrections facility on the north end to Sahuarita Road on the south end, a distance of 7.1 miles. The 1,341 foot segment of public land would be paved as part of this proposal.

Any construction activities needed for the public land segment of the pavement project will occur on a 40-foot by 45 foot area adjacent to the ROW, at the driveway entrance into the Western Area Power Administration (WAPA)'s Nogales substation (AZA-012969). This activity and area will be authorized under a TUP.

This grant and TUP is located on the following public lands:

Gila and Salt River Meridian, Arizona
T. 16 S., R. 15 E.;
sec. 7, Lot 3.

The proposed action qualifies as a CX under Departmental Manual 516, 11.9, Appendix 4 E.16 that reads, "Acquisition of easements for an existing road or issuance of leases, permits, or right-of-way for the use of existing facilities, improvements or sites for the same or similar purposes"; and 19 "Issuance of short-term (3 years or less) rights-of-way or land use authorizations for such uses as storage sites, apiary sites, and construction sites where the proposal includes rehabilitation to restore the land to its natural or original condition".

A biological evaluation and cultural survey were completed by EcoPlan Associates, Inc. in December of 2015. No historic or cultural properties were identified in the project. The project footprint was modified to avoid impacts to a known occurrence of the Pima Pineapple Cactus, a listed species.

There are no active mining claims. The area is not within a grazing allotment. Other ROW holders in the area were consulted and conflicts were mitigated. Stipulations regarding cultural resources and maintenance of the road are included with the grant.

The grant will be issued for a 30 year term with the right of renewal; and the TUP will be issued for a 3 year term. Both the ROW and TUP are authorized under the Title V of FLMPA.

Approval and Decision

Based on a review of the project described in the attached Categorical Exclusion documentation and field office staff recommendations, I have determined that the project is in conformance with The Phoenix Resource Management Plan (Phoenix RMP), Page 14: "Land use authorizations (right-of-way, leases, permits, easements) will continue to be issued on a case by case basis in accordance with the decision of the Resource Management Plan." (approved September 1989) and is categorically excluded from further environmental analysis. It is my decision to approve the action as proposed with the attached stipulations.

Administrative Review or Appeal Opportunities

This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and Form 1842-1, which can be found at the Tucson Field Office. If an appeal is taken, your notice of appeal must be filed via fax, mail, or hand delivered at Tucson Field Office, 3201 E Universal Way, Tucson AZ 85756 within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) (request) for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the Office of the Solicitor (Department of the Interior, Office of the Field Solicitor, Sandra Day O'Connor U.S. Court House #404, 401 West Washington Street SPC44, Phoenix, AZ 85003-2151) (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

Standards for Obtaining a Stay

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

/s/ Melissa Warren
Melissa Warren, Tucson Field Manager

12/22/2016
Date

Attachments:

Stipulations
Map